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DCI/K 74-0901

17 JAN 1974

MEMORANDUM FOR: Legislative Counsel

SUBJECT: HR 7130, Budget and Impoundment Control Act
of 1973

1. The purpose of HR 7130 is "to improve Congressional control of budget outlays by (1) establishing a legislative budget process for determining national policies and priorities and (2) providing for Congressional review of any impoundment of funds by the executive branch." In order to achieve a Congressional national budget and manage the system, the bill provides for two new Budget Committees, imposes procedural controls on existing appropriation and revenue committees, and creates a Legislative Budget Office to provide staff assistance to these legislative bodies. The General Accounting Office is charged with reviewing impoundments and reporting thereon to both Houses, either of which can disapprove the action by a simple majority decision. The GAO is also empowered to bring civil actions on impoundment matters.

2. The impact of this bill on the Intelligence Community, and especially upon the CIA, depends heavily upon Congressional intent. At present the Agency and some special collection programs obligate money which is hidden in other appropriations for security reasons. Such funds are then transferred to the appropriate programs. In addition, the general handling of CIA obligational requests, its contingency reserve, and other budgetary matters are unique, again because of past Congressional recognition that security requires it. As long as Congress wishes to continue these practices, HR 7130 would seem to constitute no serious problem.

3. As you suggested in your memorandum which requested comments on the bill, it probably is too early to determine the ultimate effect of reforms like these on our interests. Nonetheless, I do have a few thoughts about possibly troublesome areas:

(a) In describing improvements in fiscal procedures, Section 141(a) precludes consideration of new budget authority unless it is included in a bill which has been

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reported by an Appropriations Committee. Then, Section 142(a) states that after 1 October 1978 spending authority may be exercised only if included in an appropriation act; moreover, that spending authority includes "contract authority, borrowing authority, and any other authority to obligate the United States to more budget outlays." Whereas Defense Intelligence programs are normally funded through appropriations which broadly correspond to intelligence operations, certain intelligence monies have never been explicitly provided in an appropriation bill. To avoid later problems in this area I believe it will be necessary to work out special understandings with the Congress and possibly before the bill becomes law.

(b) HR 7130 creates a new Legislative Budget Office and authorizes it to obtain data directly from executive departments and agencies. This could, and would likely be the avenue to a much deeper Congressional scrutiny of intelligence programs than has heretofore been the case. It seems likely, however, that the leadership could be prevailed upon to limit Congressional staff clearances for intelligence to a relatively few individuals.

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(c) Another possible problem relates to the fact that HR 7130 proposes to control appropriation levels on the basis of functional categories established by DMB and the Budget Committees of the Congress. The National Foreign Intelligence Budget (except for State) is now included in the budget function called "National mainly under the element titled Communications." If Congress should place increased stress on its budget functions during its hearings, the desirability of elevating intelligence to a separate category might bear examination. I know that we have resisted this idea to date.

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(d) The impoundment provisions of HR 7130 do not appear highly formidable, unless they are interpreted to preclude reprogramming between intelligence projects, transfers of hidden funds to their proper programs, or the maintenance of the contingency reserve at CIA. Nothing in the bill clarifies this point. Naturally, we would hope to avoid restrictions on present flexibility.

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(e) If the time schedule established by the bill were adopted it would reduce the time available to prepare materials for defending the budget. It might also shorten the budget preparation period. No authorizing bills would be considered after 31 March, and all Congressional action on appropriations would be completed by 1 August. The fiscal year would begin on 1 October, but budget submissions for the next fiscal year would still be due on 1 January, thus reducing the time available for the assembly of year-end statistical data. These would cause substantial changes in our work schedule, but the overall impact would probably be salutary.

4. In short, one could find any number of possible difficulties with such a bill as this. Yet none of them would impact so greatly on intelligence that a separate plea for language change is in order. Under new authority granted in the bill, a real crusader who sought to open up the intelligence budgets might find some assistance. It seems to me, however, that even without this bill there will be a number of such challenges to be met. We would probably be better off trying to clarify definitions such as "impoundment" and to establish with the sponsors of the bill or the reviewing committees an awareness of our concern that they adopt procedures which will protect sources and methods and allow for the development of new intelligence technology under the necessary degree of secrecy. The community controllers need to get together and discuss these matters and IC will take such action.

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MEMORANDUM FOR:

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Here is a proposed answer for you to send Jack Maury regarding the Budget and Impoundment Act of 1973. The bill doesn't look too ominous if we can get ^a reading on congressional intent with respect to some of our ^{special} movies.

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8 Jan 74
(DATE)